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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/911,824	08/15/1997	JOHN R. HACKETT, JR.	6165.US.01	4028

23492 7590 09/25/2003

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EXAMINER

HILL, MYRON G

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 09/25/2003

34

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/911,824

Applicant(s)

HACKETT, JR. ET AL.

Examiner

Myron G. Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 35.
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

This action is in response to paper# 33, filed July 8, 2003.

Claims 1 and 2 are pending.

Objections and Rejections Withdrawn

The objection to claim 2.

The rejections of claims 1 and 2 under 35 U.S.C. 112, second paragraph.

The rejections of claims 1 and 2 under 35 U.S.C. 112, first paragraph.

The rejections of claim 1 under 35 U.S.C. 102(a).

Rejection Maintained

Claim 2 remains rejected under 35 U.S.C. 102(a) as being anticipated by EMBL/NCBI Accession Number X96526.

Applicant has amended the claim to be independent to overcome the claim objection. Applicant argues that the limitation of 80% has been removed and the rejection should be withdrawn.

Applicant's arguments have been fully considered and not found persuasive.

The claim is drawn to any isolated HIV-1 Group O *env* polypeptide comprising an immunoreactive portion of a polypeptide sequence comprising SEQ ID # 61.

This reads on any isolated HIV-1 Group O *env* polypeptide that shares an immunoreactive portion (as few as 5 contiguous amino acids, page 9, lines 19- 25).

The polypeptide of DelaPorte (NCBI Accession Number X96526) anticipates the claim because it is also a HIV-1 Group O *env* polypeptide (Groups being determined by immunoreactivity) and the sequence is 83.5 % identical sharing many regions of 5 or identical amino acids. The 1.131 declaration of Sushil Devare is not effective in overcoming this rejection, see previous Office action paragraphs spanning pages 5- 6.

Allowable Subject Matter

Claim 1 as written is allowable.

Conclusion

Claim 2 remains rejected.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Myron G. Hill whose telephone number is 703-308-4521. The examiner can normally be reached on 9am-6pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 703-308-4247. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Myron G. Hill
Patent Examiner
September 20, 2003



JAMES HOUSEL 9/22/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600